

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.D-106 of 2022

Present:-

Mr. Justice Muhammad Iqbal Kalhoro.  
Mr. Justice Khadim Hussain Soomro.

Date of hearing: 16.05.2023  
Date of decision: 16.05.2023  
Appellant: Shahid Shah,  
Through Mr. Om Parkash advocate.  
The State: Through Mr. Nazar Muhammad Memon, APG.

JUDGMENT

**MUHAMMAD IQBAL KALHORO**, J:- Appellant was arrested by a police party of PS Chhachhar headed by complainant SIP Sajidullah Gambheer from his house situated in Sunn City Deh Sunn Taluka Manjhand on 02.05.2022 at 1200 hours and from his possession 3000 grams of charas was recovered.

2. In the trial, prosecution examined four (04) witnesses to support its case and in terms of impugned judgment dated 20.09.2022 appellant has been convicted and sentenced to undergo RI for 05 years and to pay fine of Rs.25,000/-, in default thereof to undergo SI for 05 months more, however, he has been extended benefit of section 382-B CrPC, which he has challenged by way of this appeal.

3. Learned defence counsel at the very outset submits that he would not press the appeal on merits if period of sentence the appellant has spent in jail is treated as a sentence to him and he is released.

4. Learned Additional Prosecutor General has recorded no objection to it.

5. We have considered request of learned defense counsel and perused the material available on record. The witnesses have fully supported the prosecution case, arrest of appellant from the spot and recovery of 3000 grams of chars from him which is further supported by

positive report of chemical analysis. There is no material discrepancy in the case. It is obvious that prosecution has proved its case beyond a reasonable doubt. However, there is no record that appellant has been previously convicted of the offence of narcotics as confirmed by the learned Additional Prosecutor General. Learned defence counsel states that appellant is remorseful of his past deeds and wants to improve himself to be good cog in the machine. Jail roll shows that appellant has remained in jail for 01 year 03 days and has earned remission of 02 years 11 months 22 days, total 03 years 11 months and 25 days he has suffered.

6. There is no bar to minimum punishment for keeping possession of 3000 grams of chars and, however could go upto imprisonment for life maximum. Hence, there is no legal impediment in acceding to the request of learned defence counsel, not opposed by the learned Additional Prosecutor General, for reduction of sentence. We, therefore, dismiss this appeal, notwithstanding, convert the sentence of 05 years awarded to the appellant into the period already undergone by him in the jail. However, the order regarding payment of fine of Rs.25,000/- or 05 months SI on account of its default shall remain intact. The appellant shall be released on payment of fine or after the period in lieu of which he is required to undergo.

7. The appeals are disposed of in the terms as stated above.

JUDGE

JUDGE

Ali Haider